

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: DIGITEK PRODUCTS LIABILITY LITIGATION

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

**APPLICATION OF FRANK M. PITRE FOR
APPOINTMENT TO THE PLAINTIFFS' STEERING COMMITTEE**

Pursuant to Pretrial Order No. 2, Frank M. Pitre of Cotchett, Pitre & McCarthy, submits this Application and respectfully request the Court consider my appointment to the Plaintiffs' Steering Committee.

**WILLINGNESS AND AVAILABILITY TO COMMIT
TO A TIME CONSUMING PROJECT**

A. The Digitek Case

Applicant and the Cotchett, Pitre & McCarthy firm has been actively investigating the background surrounding the manufacturing process related to Digitek, as well as its health risks, since first alerted of the recall. The firm has since filed a lawsuit (*Delphia Davis, et al. v. Actavis Group, et al*, Case No. CV-08-3173) seeking damages for the wrongful death of a 55-year old man who ingested the drug.

B. Qualifications

As co-lead trial counsel for the Plaintiffs' Steering Committee in the MDL Bextra/Celebrex proceedings (MDL Docket No. M:05-CV-01699 CRB) which reached a successful conclusion last week, I have fresh ideas to contribute, along with the dedication to a cooperative effort that is essential to manage these cases. Moreover, I have the support of a firm that has repeatedly demonstrated an expertise in such matters, matched by a commitment to provide the resources

necessary for the pursuit of complex cases.

ABILITY TO WORK COOPERATIVELY WITH OTHERS

The experience of having served in leadership positions in both individual mass tort coordinated cases and class actions, provides me with a balanced insight into the divergent interests of all plaintiffs in the cases before this Court. Additionally, my previous involvement with the filing of both state and federal cases in matters like this, seeking individual damages and class action relief, assures an interest and experience in all facets of thought behind the efficient pursuit of these matters.

The Cotchett firm has achieved a reputation for diligently and vigorously prosecuting its cases and bringing cases to trial where doing so is in the best interest of our clients. A cohesive, well-organized group of experienced attorneys who are prepared to expeditiously pursue these cases in a way which safeguards the divergent views of plaintiffs counsel is essential to effective case management.

PROFESSIONAL EXPERIENCE IN THIS TYPE OF LITIGATION

I am a partner in the law firm of Cotchett, Pitre & McCarthy located in Burlingame, California where I have practiced since 1981. I am a Certified Civil Trial Advocate, National Board of Trial Advocacy; a member of the American Board of Trial Advocates, the International Academy of Trial Lawyers and a Past-President of the Consumer Attorneys of California (2006). I am listed in the Best Lawyers in America Publication, and have been recognized as a finalist for Trial Lawyer of the Year by both The Trial Lawyers for Public Justice (2000) and the Consumer Attorneys of California (2004). I have lectured and written extensively on issues involving tort and trial practice. For the past twelve years, I have been honored to be the author of the annual *California Personal Injury Proof Update*, Continuing Education of the Bar of the State of California. Both the firm and I are privileged to have AV ratings by *Martindale-Hubbell*.

I have tried over 35 civil jury cases to verdict in a variety of fields including personal injury/wrongful death, fraud, antitrust and commercial litigation in both federal and state courts. Approximately, two-thirds of those cases were jury trials of four weeks or more.

In addition, I have served in leadership positions for the coordination and resolution of several mass tort cases, including: *In re Bextra/Celebrex*, United States District Court, Northern District of California, MDL Docket No. M:05-CV-01699-CRB [Co-Lead Trial Counsel for the Plaintiffs' Steering Committee]; *In re Air Crash Near Point Mugu, California on January 31, 2000*, United States District Court, Northern District of California, MDL Docket No. 00-1343CRB, [Liaison Counsel for the Plaintiffs' Steering Committee]; *Livingston v. Toyota Motor Sales USA, Inc.*, United States District Court, Northern District of California, Case No. C94-1377 MHP [Co-Lead Counsel]; *Taylor Tire Co. v. The Goodyear Tire & Rubber Co.*, United States District Court, Southern District of California, No. 94-1050 [Co-Lead Counsel]; *In re Diet Drugs (Fen-Phen)*, Superior Court of California, Los Angeles County, Judicial Council Coordination Proceeding No. 4032. [Member of the Plaintiffs' Executive Committee]; *Carnahan et al. v. State of California*, Superior Court of California, County of Fresno, Case No. 474276-3 [Member of Plaintiffs' Steering Committee]; *PSA Air Crash Cases*, California Superior Court, Los Angeles County, Judicial Council Coordination Proceeding No. 2180 and No. 1286, [Plaintiffs' Steering Committee, and later as Plaintiffs' Co-Lead Trial Counsel for six week jury trial which established the defendants' liability].

I have served on numerous Steering Committees as a member of the committee.

RESPECTFULLY SUBMITTED,

BY: 

Frank M. Pitre, California Bar No. 100077
COTCHETT, PITRE & MCCARTHY
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Tele: (650) 697-6000 Fax: (650) 697-0577
Email: fpitre@cpmlegal.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been electronically filed with the Clerk of Court this 20th day of October, 2008, by using the CM/ECF system which will send notice of electronic filing to all parties of record at the email addresses on file with the Clerk of the Court.

/s/ FRANK M. PITRE

FRANK M. PITRE